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 7 GENERAL ELECTRIC COMPANY and
 GE HEALTHCARE INC.

8

9 **UNITED STATES DISTRICT COURT**

10 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

11 WILLIAM PASCHAL and
 12 PATRICIA PASCHAL,

13 Plaintiffs,

14 v.

15 BAYER HEALTHCARE
 16 PHARMACEUTICALS, INC.;
 BAYER HEALTHCARE LLC;
 17 GENERAL ELECTRIC
 COMPANY; GE HEALTHCARE,
 INC.; COVIDIEN, INC.;
 18 MALLINCKRODT, INC.; and
 BRACCO DIAGNOSTICS, INC.,

19 Defendants.

20 Case No. 3:08-cv-01298 EMC

21

22 **NOTICE OF MULTIDISTRICT
 LITIGATION TRANSFER ORDER
 AND CONDITIONAL TRANSFER
 ORDER**

23 **[Jury Trial Demanded]**

24

25 **TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF
 RECORD:**

26 **PLEASE TAKE NOTICE** that on February 27, 2008, the MultiDistrict
 27 Litigation Panel issued a Transfer Order and on March 7, 2008 issued a Conditional
 Transfer establishing an MDL for Gadolinium-based contrast agent actions.
 Attached collectively hereto as Exhibit "A" are true and correct copies of the
 Orders.

Once removal of this case has been effected, counsel for General Electric Company and GE Healthcare Inc. will identify this case as a "tag-along" subject to transfer.

Dated: March 25, 2008

KUTAK ROCK LLP

By

Deborah C. Prosser
Stephanie A. Hingle
Attorneys for Defendants
GENERAL ELECTRIC COMPANY
and GE HEALTHCARE INC.

EXHIBIT “A”

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

Feb 27, 2008

FILED
CLERK'S OFFICE

IN RE: GADOLINIUM CONTRAST DYES
PRODUCTS LIABILITY LITIGATION

MDL No. 1909

TRANSFER ORDER

Before the entire Panel¹: Plaintiffs in twelve actions have moved, pursuant to 28 U.S.C. § 1407, for coordinated or consolidated pretrial proceedings of this litigation in the Southern District of Ohio. The GE defendants,² the Bayer defendants,³ the Tyco defendants,⁴ and defendant Novation, LLC, support centralization, but suggest the Northern District of Ohio as transferee district. Plaintiff in the Northern District of Alabama potentially related action supports centralization, but suggests the District of Colorado as transferee district. Defendant Bracco Diagnostics, Inc. (Bracco) opposes centralization of all claims against Bracco, the Tyco defendants, or the Bayer defendants; or, alternatively, suggests creating a separate MDL for each defendant group; or, alternatively, suggests the District of Kansas as transferee district.

This litigation currently consists of 24 actions listed on Schedule A and pending in thirteen districts as follows: five actions in the Southern District of Ohio; four actions each in the Northern District of Ohio and the Middle District of Tennessee; two actions in the Western District of Texas; and one action each in the Eastern District of Arkansas, the Central District of California, the District of Colorado, the Northern District of Georgia, the Western District of Louisiana, the District of Minnesota, the Western District of Missouri, the District of South Carolina, and the Southern District of Texas.⁴

¹ Judges Heyburn and Motz did not participate in the disposition of this matter.

² General Electric Co., GE Healthcare Inc., and GE Healthcare Bio-Sciences Corp.

³ Bayer Healthcare Pharmaceuticals Inc., Bayer Healthcare LLC, Bayer Corp., and Bayer Pharmaceuticals Corp.

⁴ Mallinckrodt, Inc., Tyco International Ltd., Tyco Healthcare Ltd., Tyco Holdings Ltd., Tyco Healthcare Group LP, and Covidien Ltd.

⁴ The Panel has been notified that 44 other related actions have been filed as follows: four actions in the District of New Jersey; three actions each in the Eastern District of Missouri, the Eastern District of Wisconsin, and the Northern District of West Virginia; two actions each in the Northern District of Alabama, the Eastern District of Arkansas, the Central District of California, the District

On the basis of the papers filed and hearing session held, we find that these actions involve common questions of fact and that centralization under Section 1407 in the Northern District of Ohio will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share questions of fact arising out of the allegation that gadolinium based contrast dyes may cause nephrogenic systemic fibrosis in patients with impaired renal function. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery; prevent inconsistent pretrial rulings; and conserve the resources of the parties, their counsel and the judiciary.

In opposition to centralization of all MDL No. 1909 actions, defendant Bracco argues, *inter alia*, that (1) the actions do not share sufficient questions of fact because each of the contrast agents is chemically and pharmacologically different; (2) because of the unique properties of each contrast agent, a global MDL will impinge upon the due process rights of the separate defendant companies; (3) when each defendant group is considered separately, there are too few actions to warrant MDL treatment for any claims other than those involving the GE defendants; and (4) alternatives to centralization are available and sufficient to coordinate the small number of claims involving Bracco and the Tyco and Bayer defendants.

We are not persuaded by these arguments. Transfer under Section 1407 does not require a complete identity or even a majority of common factual or legal issues as a prerequisite to transfer. Transfer under Section 1407 has the salutary effect of placing all actions in this docket before a single judge who can formulate a pretrial program that: (1) allows discovery with respect to any non-common issues to proceed concurrently with discovery on common issues, *In re Joseph F. Smith Patent Litigation*, 407 F.Supp. 1403, 1404 (J.P.M.L. 1976); and (2) ensures that pretrial proceedings will be conducted in a manner leading to the just and expeditious resolution of all actions to the overall benefit of the parties. The MDL No. 1909 transferee court can employ any number of pretrial techniques – such as establishing separate discovery and/or motion tracks – to efficiently manage this litigation. In any event, we leave the extent and manner of coordination or consolidation of these actions to the discretion of the transferee court. *In re Mutual Funds Investment Litigation*, 310 F.Supp.2d 1359 (J.P.M.L. 2004). It may be, on further refinement of the issues and close scrutiny by the transferee judge, that some claims or actions can be remanded to their transferor districts for trial in advance of the other actions in the transferee district. But we are unwilling, on the basis of the record before us, to make such a determination at this time. Should the transferee judge deem remand of any claims or actions appropriate, procedures are available whereby this may be accomplished with a minimum of delay. See Rule 7.6, R.P.J.P.M.L., 199

of Colorado, the Middle District of Louisiana, the District of Maryland, and the District of Minnesota; and one action each in the Western District of Arkansas, the Northern District of California, the District of Connecticut, the District of District of Columbia, the Middle District of Florida, the Central District of Illinois, the Southern District of Illinois, the Southern District of Indiana, the District of Kansas, the Western District of Louisiana, the Western District of Missouri, the Western District of New York, the Middle District of North Carolina, the Northern District of Ohio, the Southern District of Ohio, the Northern District of Oklahoma, and the Eastern District of Pennsylvania. These actions will be treated as potential tag-along actions. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

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F.R.D. at 436-38. We are confident in the transferee judge's ability to streamline pretrial proceedings in all actions, while concomitantly directing the appropriate resolution of all claims.

We are persuaded that the Northern District of Ohio is an appropriate transferee district. This district provides a relatively central forum for this nationwide litigation. In addition, Judge Dan A. Polster has the time and experience to steer this docket on a prudent course.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the Northern District of Ohio are transferred to the Northern District of Ohio and, with the consent of that court, assigned to the Honorable Dan A. Polster for coordinated or consolidated pretrial proceedings with the actions pending there and listed on Schedule A.

PANEL ON MULTIDISTRICT LITIGATION



D. Lowell Jensen
Acting Chairman

John G. Heyburn II, Chairman*	J. Frederick Motz*
Robert L. Miller, Jr.	Kathryn H. Vratil
David R. Hansen	Anthony J. Scirica

**IN RE: GADOLINIUM CONTRAST DYES
PRODUCTS LIABILITY LITIGATION**

MDL No. 1909

SCHEDULE A

Eastern District of Arkansas

Roland Thomas v. General Electric Co., et al., C.A. No. 4:07-936

Central District of California

Cynthia Kay Mitchell v. Berlex Labs, Inc., et al., C.A. No. 5:07-433

District of Colorado

Greta Carolus, et al. v. General Electric Co., et al., C.A. No. 1:07-714

Northern District of Georgia

Mary Davis, etc. v. General Electric Co., et al., C.A. No. 4:07-202

Western District of Louisiana

Ronald E. Corkern, III v. General Electric Co., et al., C.A. No. 1:07-979

District of Minnesota

William Clark v. General Electric Co., et al., C.A. No. 0:07-3818

Western District of Missouri

Abraham Showalter, et al. v. General Electric Co., et al., C.A. No. 5:07-6102

Northern District of Ohio

John G. Walker, et al. v. Tyco Healthcare Group LP, et al., C.A. No. 1:07-741
Beverly Rockwell, etc. v. Bayer Healthcare Pharmaceuticals, Inc., et al.,
C.A. No. 1:07-1564

Gwendolyn Dennis v. General Electric Co., et al., C.A. No. 1:07-2849

James Babione v. General Electric Co., et al., C.A. No. 3:07-1977

Southern District of Ohio

Alisha A. Hagwood, et al. v. General Electric Co., et al., C.A. No. 2:07-548
Robert W. Murray, et al. v. General Electric Co., et al., C.A. No. 2:07-612

- A2 -

MDL No. 1909 Schedule A (Continued)

Southern District of Ohio (Continued)

Carolyn Hall, etc. v. General Electric Co., et al., C.A. No. 2:07-942
Lance A. Voeltner v. General Electric Co., et al., C.A. No. 2:07-943
Paul W. Frazier, et al. v. Bayer Corp., et al., C.A. No. 2:07-1005

District of South Carolina

Anna White v. General Electric Co., et al., C.A. No. 2:07-1740

Middle District of Tennessee

Danielle Marie Snyder v. GE Healthcare, Inc., et al., C.A. No. 3:07-290
Jeanetta Deason v. General Electric Co., et al., C.A. No. 3:07-619
Jerry Henley, et al. v. Tyco International, Ltd., et al., C.A. No. 3:07-774
Kerry Kurt Phillips, et al. v. General Electric Co., et al., C.A. No. 3:07-824

Southern District of Texas

Lloyd Massie, et al. v. Bayer Healthcare, LLC, et al., C.A. No. 3:07-368

Western District of Texas

Donna Lee v. General Electric Co., et al., C.A. No. 5:07-825
Ray Rodriguez, et al. v. General Electric Co., et al., C.A. No. 5:07-826

MAR - 7 2008

FILED
CLERK'S OFFICE

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: GADOLINIUM CONTRAST DYES PRODUCTS
LIABILITY LITIGATION

MDL No. 1909

(SEE ATTACHED SCHEDULE)

CONDITIONAL TRANSFER ORDER (CTO-1)

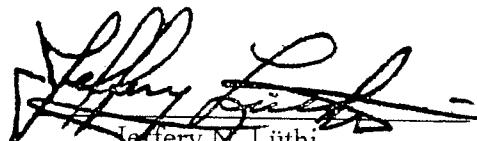
On February 27, 2008, the Panel transferred 20 civil actions to the United States District Court for the Northern District of Ohio for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See* ___ F.Supp.2d ___ (J.P.M.L. 2008). With the consent of that court, all such actions have been assigned to the Honorable Dan A. Polster.

It appears that the actions on this conditional transfer order involve questions of fact that are common to the actions previously transferred to the Northern District of Ohio and assigned to Judge Polster.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the Northern District of Ohio for the reasons stated in the order of February 27, 2008, and, with the consent of that court, assigned to the Honorable Dan A. Polster.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Northern District of Ohio. The transmittal of this order to said Clerk shall be stayed 15 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 15-day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:



Jeffery N. Lüthi
Clerk of the Panel

MDL No. 1909 - Schedule CTO-1 Tag-Along Actions (Continued)

<u>DIST. DIV. C.A. #</u>	<u>CASE CAPTION</u>
LOUISIANA MIDDLE LAM 3 07-776 LAM 3 07-826	Michelle Rice v. Bayer Healthcare Pharmaceuticals, Inc., et al. Billy Parker v. Bayer Healthcare Pharmaceuticals, Inc., et al.
LOUISIANA WESTERN LAW 2 07-1951	Irven S. Shelton, et al. v. General Electric Co., et al.
MARYLAND MD 1 08-337 MD 1 08-338	Mosetta Burden-White v. General Electric Co., et al. John Davis, Jr., et al. v. General Electric Co., et al.
MINNESOTA MN 0 07-4706 MN 0 07-4893	Loralei L. Knase, et al. v. General Electric Co., et al. Harry D. Cleek, et al. v. General Electric Co., et al.
MISSOURI EASTERN MOE 4 07-1832 MOE 4 07-1964 MOE 4 07-2050	Jessi Nienke v. General Electric Co., et al. Stewart Watson, V v. General Electric Co., et al. Beverly Lombardo, et al. v. General Electric Co., et al.
MISSOURI WESTERN MOW 4 07-869	David Phillips, et al. v. General Electric Co., et al.
NORTH CAROLINA MIDDLE NCM 1 07-927	Bobby Paul, et al. v. General Electric Co., et al.
NEW JERSEY NJ 1 08-559 NJ 1 08-562 NJ 3 07-5942 NJ 3 07-5985	Deena W. Wood, etc. v. Bayer Corp., et al. Judith Minor, etc. v. Bayer Corp., et al. Paul Brian Staples, et al. v. General Electric Co., et al. Claudia Ethington, et al. v. General Electric Co., et al.
NEW YORK WESTERN NYW 6 08-6009	Jennifer Newton, et al. v. General Electric Co., et al.
OHIO SOUTHERN OHS 1 07-1001	Donald L. Hannah, et al. v. General Electric Co., et al.
OKLAHOMA NORTHERN OKN 4 07-666	Royce Campbell, et al. v. General Electric Co., et al.
PENNSYLVANIA EASTERN PAE 2 08-404	Denise Grant v. General Electric Co., et al.

IN RE: GADOLINIUM CONTRAST DYES PRODUCTS
LIABILITY LITIGATION

MDL No. 1909

SCHEDULE CTO-1 - TAG-ALONG ACTIONS

<u>DIST. DIV. C.A. #</u>	<u>CASE CAPTION</u>
ALABAMA NORTHERN	
ALN 2 07-2205	Joseph L. Smith v. General Electric Co., et al.
ALN 2 08-65	Yalonda Sanders, etc. v. General Electric Co., et al.
ARKANSAS EASTERN	
ARE 4 07-1051	Ricky Barnes, et al. v. General Electric Co., et al.
ARE 4 07-1115	Christine Black, et al. v. General Electric Co., et al.
ARKANSAS WESTERN	
ARW 2 07-2148	Bertin A. Nogues v. General Electric Co., et al.
CALIFORNIA CENTRAL	
CAC 2 07-7844	Beverly Hubbard v. GE Healthcare, Inc., et al.
CAC 2 08-518	Sarah Frascella v. General Electric Co., et al.
COLORADO	
CO 1 07-2542	Debra Necas v. General Electric Co., et al.
CO 1 08-47	Joanne McBride, etc. v. General Electric Co., et al.
CONNECTICUT	
CT 3 07-1753	Carmel T. Koerber, etc. v. Bayer Healthcare Pharmaceuticals, Inc., et. al.
DISTRICT OF COLUMBIA	
DC 1 08-122	Lacey Derosa v. General Electric Co., et al.
FLORIDA MIDDLE	
FLM 6 08-29	John R. Hackett, et al. v. Bayer Corp., et al.
ILLINOIS CENTRAL	
ILC 3 07-3296	Earnest Dwight Louderman v. General Electric Co., et al.
ILLINOIS SOUTHERN	
ILS 3 08-1	Alan Taylor v. General Electric Co., et al.
INDIANA SOUTHERN	
INS 1 08-109	Danielle Marie Snyder v. Bayer Corp., et al.
KANSAS	
KS 2 07-2513	Russell Voeltz, et al. v. General Electric Co., et al.

MDL No. 1909 - Schedule CTO-1 Tag-Along Actions (Continued)

DIST. DIV. C.A. #

CASE CAPTION

WISCONSIN EASTERN

WIE 2 07-954

WIE 2 07-986

WIE 2 07-1101

Greg Reed, et al. v. General Electric Co., et al.

Gregory Key v. General Electric Co., et al.

Robert Sawall, et al. v. General Electric Co., et al.

WEST VIRGINIA NORTHERN

WVN 5 08-27

WVN 5 08-28

WVN 5 08-29

Francis Lydon v. Bayer Corp., et al.

Mary R. Reel v. Bayer Corp., et al.

George Lipscomb, et al. v. Bayer Corp., et al.

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IN RE: GADOLINIUM CONTRAST DYES PRODUCTS
LIABILITY LITIGATION

MDL No. 1909

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Upon learning of the pendency of a potential "tag-along action," as defined in Rule 1.1 of these Rules, an order may be entered by the Clerk of the Panel transferring that action to the previously designated transferee district court on the basis of the prior hearing session(s) and for the reasons expressed in previous opinions and orders of the Panel in the litigation. The Clerk of the Panel shall serve this order on each party to the litigation but, in order to afford all parties the opportunity to oppose transfer, shall not send the order to the clerk of the transferee district court for fifteen days from the entry thereof.

(b) Parties to an action subject to a conditional transfer order shall notify the Clerk of the Panel within the fifteen-day period if that action is no longer pending in its transferor district court.

(c) Any party opposing the transfer shall file a notice of opposition with the Clerk of the Panel within the fifteen-day period. If a notice of opposition is received by the Clerk of the Panel within this fifteen-day period, the Clerk of the Panel shall not transmit said order to the clerk of the transferee district court until further order of the Panel. The Clerk of the Panel shall notify the parties of the briefing schedule.

(d) Within fifteen days of the filing of its notice of opposition, the party opposing transfer shall file a motion to vacate the conditional transfer order and brief in support thereof. The Chairman of the Panel shall set the motion for the next appropriate hearing session of the Panel. Failure to file and serve a motion and brief shall be treated as withdrawal of the opposition and the Clerk of the Panel shall forthwith transmit the order to the clerk of the transferee district court.

(e) Conditional transfer orders do not become effective unless and until they are filed with the clerk of the transferee district court.

(f) Notices of opposition and motions to vacate such orders of the Panel and responses thereto shall be governed by Rules 5.12, 5.2, 7.1 and 7.2 of these Rules.

RULE 7.5: MISCELLANEOUS PROVISIONS CONCERNING "TAG-ALONG ACTIONS"

(a) Potential "tag-along actions" filed in the transferee district require no action on the part of the Panel and requests for assignment of such actions to the Section 1407 transferee judge should be made in accordance with local rules for the assignment of related actions.

(b) Upon learning of the pendency of a potential "tag-along action" and having reasonable anticipation of opposition to transfer of that action, the Panel may direct the Clerk of the Panel to file a show cause order, in accordance with Rule 7.3 of these Rules, instead of a conditional transfer order.

(c) Failure to serve one or more of the defendants in a potential "tag-along action" with the complaint and summons as required by Rule 4 of the Federal Rules of Civil Procedure does not preclude transfer of such action under Section 1407. Such failure, however, may be submitted by such a defendant as a basis for opposing the proposed transfer if prejudice can be shown. The inability of the Clerk of the Panel to serve a conditional transfer order on all plaintiffs or defendants or their counsel shall not render the transfer of the action void but can be submitted by such a party as a basis for moving to remand as to such party if prejudice can be shown.

(d) A civil action apparently involving common questions of fact with actions under consideration by the Panel for transfer under Section 1407, which was either not included in a motion under Rule 7.2 of these Rules, or was included in such a motion that was filed too late to be included in the initial hearing session, will ordinarily be treated by the Panel as a potential "tag-along action."

(e) Any party or counsel in actions previously transferred under Section 1407 or under consideration by the Panel for transfer under Section 1407 shall promptly notify the Clerk of the Panel of any potential "tag-along actions" in which that party is also named or in which that counsel appears.

RULE 5.2: SERVICE OF PAPERS FILED

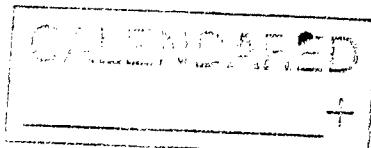
(a) All papers filed with the Clerk of the Panel shall be accompanied by proof of previous or simultaneous service on all other parties in all actions involved in the litigation. Service and proof of service shall be made as provided in Rules 5 and 6 of the Federal Rules of Civil Procedure. The proof of service shall indicate the name and complete address of each person served and shall indicate the party represented by each. If a party is not represented by counsel, the proof of service shall indicate the name of the party and the party's last known address. The proof of service shall indicate why any person named as a party in a constituent complaint was not served with the Section 1407 pleading. The original proof of service shall be filed with the Clerk of the Panel and copies thereof shall be sent to each person included within the proof of service. After the "Panel Service List" described in subsection (d) of this Rule has been received from the Clerk of the Panel, the "Panel Service List" shall be utilized for service of responses to motions and all other filings. In such instances, the "Panel Service List" shall be attached to the proof of service and shall be supplemented in the proof of service in the event of the presence of additional parties or subsequent corrections relating to any party, counsel or address already on the "Panel Service List."

(b) The proof of service pertaining to motions for transfer of actions pursuant to 28 U.S.C. §1407 shall certify that copies of the motions have been mailed or otherwise delivered for filing to the clerk of each district court in which an action is pending that will be affected by the motion. The proof of service pertaining to a motion for remand pursuant to 28 U.S.C. §1407 shall certify that a copy of the motion has been mailed or otherwise delivered for filing to the clerk of the Section 1407 transferee district court in which any action affected by the motion is pending.

(c) Within eleven days of filing of a motion to transfer, an order to show cause or a conditional transfer order, each party or designated attorney shall notify the Clerk of the Panel, in writing, of the name and address of the attorney designated to receive service of all pleadings, notices, orders and other papers relating to practice before the Judicial Panel on Multidistrict Litigation. Only one attorney shall be designated for each party. Any party not represented by counsel shall be served by mailing such pleadings to the party's last known address. Requests for an extension of time to file the designation of attorney shall not be granted except in extraordinary circumstances.

(d) In order to facilitate compliance with subsection (a) of this Rule, the Clerk of the Panel shall prepare and serve on all counsel and parties not represented by counsel, a "Panel Service List" containing the names and addresses of the designated attorneys and the party or parties they represent in the actions under consideration by the Panel and the names and addresses of the parties not represented by counsel in the actions under consideration by the Panel. After the "Panel Service List" has been received from the Clerk of the Panel, notice of subsequent corrections relating to any party, counsel or address on the "Panel Service List" shall be served on all other parties in all actions involved in the litigation.

(e) If following transfer of any group of multidistrict litigation, the transferee district court appoints liaison counsel, this Rule shall be satisfied by serving each party in each affected action and all liaison counsel. Liaison counsel designated by the transferee district court shall receive copies of all Panel orders concerning their particular litigation and shall be responsible for distribution to the parties for whom he or she serves as liaison counsel.



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Exh. A

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